

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2002-104-S - ORDER NO. 2002-712

OCTOBER 3, 2002

IN RE: Application of Moore Sewer, Inc. for Adjustment of Rates and Charges for Provision of Sewer Collection and for Approval of Certain Contractual Relationships.	) ) ) ) ) )	ORDER APPROVING CONTRACTS AND TEMPORARY COLLECTION-ONLY RATES
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This matter comes before the Public Service Commission of South Carolina (the Commission) on the Application of Moore Sewer, Inc. (Moore Sewer or the Company) for the adjustment of rates and charges for the provision of sewer collection and for approval of certain contractual relationships. The Company's service area is in Spartanburg County, South Carolina.

By letter, the Commission's Executive Director instructed the Company to publish a prepared Notice of Filing, one time, in a newspaper of general circulation in the area affected by the Company's Application. Subsequently, an amended Notice of Filing was also published in a newspaper of general circulation in the same area. The notices indicated the nature of the Company's Application and advised all interested parties desiring participation in the scheduled proceeding of the manner and time in which to file the appropriate pleadings. The Company was likewise required to notify directly all customers affected by the proposed rates and charges.

Petitions to Intervene were filed by Leonardo Jordan, Rickey L. Henderson, Michael Hollis, Sr., and the Consumer Advocate for the State of South Carolina (the Consumer Advocate). A Petition to Intervene Out of Time filed by Ralph W. Longshore, Sr. was granted pursuant to Order No. 2002-472.

The Commission Staff (the Staff) made on-site investigations of the Company's facilities, audited the Company's books and records, and gathered other detailed information concerning the Company's operations.

A public hearing was held on September 25, 2002 at 2:30 PM in the offices of the Commission, with the Honorable Mignon L. Clyburn, Chairman, presiding. John J. Pringle, Esquire represented Moore Sewer, Inc. Leonardo Jordan, Ralph W. Longshore, Sr., and Rickey L. Henderson all appeared pro se. The Consumer Advocate was represented by Charles M. Knight, Esquire. Michael Hollis, Sr. did not appear at the hearing. The Commission Staff was represented by F. David Butler, General Counsel.

Members of the public appeared and testified as to their opinions of the merits of the case. The Company then presented the testimony of William G. Teichman. Ralph W. Longshore, Sr. and Rickey L. Henderson, pro se Intervenors, also testified. The Staff presented the testimony of Vivian B. Dowdy and William O. Richardson.

### **FINDINGS OF FACT**

1. The Company is a sewer utility operating in Spartanburg County, South Carolina, and is subject to the jurisdiction of the Commission, pursuant to S.C. Code Ann. Section 58-5-10 (1976) et seq.

2. Moore Sewer, Inc. is currently authorized to serve the Linville Hills Subdivision and the Madera Subdivision. Linville Hills currently has approximately 300 taps. The Madera Subdivision has approximately 90 taps.

3. The Linville Hills sewerage system includes 11, 000 feet of 6 and 8 inch drain pipe, and approximately 34 to 36 man holes.

4. The Madera sewerage system includes 5,675 feet of eight-inch drainpipe and some 25 manholes.

5. The owner of the Company, William Teichman, has performed considerable maintenance on the two systems.

6. The Company is authorized to charge a flat-rate for sewer (treatment and collection) of \$28.50 per month in the Linville Hills Subdivision, approved by Order No. 2001-243, issued in Docket No. 1999-397-S.

7. Moore Sewer, Inc. is authorized to charge a flat rate for sewer (treatment and collection) of \$17.50 in the Madera Subdivision, approved by Order No. 90-31, issued in Docket No. 88-45-S. The Company has not charged its customers the approved rate in Madera Subdivision for about a year, in conformance with its understanding of a Commission Staff member's opinion that it would be improper for Moore Sewer to continue to charge its approved rate.

8. Moore Sewer's National Pollution Discharge Elimination System (NPDES) permits for both Linville Hills and Madera require the Company to phase out its lagoon treatment facilities and tie on to the Spartanburg Sanitary Sewer District (SSSD) interceptor sewer line, in order that wastewater be treated at the North Tiger

Wastewater Treatment Facility. These permit requirements were originally imposed on the previous owners of the systems in Linville Hills and Madera. The South Carolina Department of Health and Environmental Control (DHEC) and the Company entered into one or more consent orders, and according to DHEC, a failure to tie on was a violation of said orders, as well as the permits. As a result, Moore Sewer is becoming a “collection only” utility.

9. Moore seeks approval *nunc pro tunc* of the contract memorializing its September 1, 2001 tie-on to the SSSD line for treatment of sewerage from the Company’s Madera customers. Under the contract, Moore Sewer’s customers pay SSSD a usage fee of \$1.32 per 100 cubic feet of water. In addition, these customers pay the City of Spartanburg \$ 0.93 per 100 cubic feet of water to reimburse the City for its sewerage pumping station located in the area once occupied by the now-defunct Moore Sewer treatment lagoon. Therefore, Madera customers now pay a total of \$2.25 per 100 cubic feet for wastewater treatment services. The Spartanburg Water System now includes sewerage treatment charges on the customers’ water bill.

10. The Company also seeks approval of a proposed agreement between it and SSSD for wastewater treatment services for Linville Hills. Under the proposal, SSSD will bill Moore Sewer for the volume of wastewater discharged from Linville Hills to the SSSD’s North Tyger River Wastewater Treatment Plant, at a rate (effective August 1, 2002) of \$1.72 per 100 cubic feet, and Moore Sewer will pass those charges on to its customers without markup, upon approval by this Commission. According to Company witness Teichman, customers will be billed based on the total volume of wastewater

created in the subdivision times the sewer treatment rate quoted above (as it may be adjusted from time to time) divided by the number of customers. Moore Sewer will not mark up this charge in any manner. According to the Company, this flat-rate method of allocating treatment of charges to customers is consistent with the Company's existing flat rate.

11. Moore Sewer also seeks the approval of a collection-only rate structure. The Company seeks to maintain the present flat-rate amounts approved for Madera and Linville Hills, even though said amounts were originally approved for both collection and treatment. In the alternative, Moore Sewer asks this Commission to set a single collection-only rate, reflecting the current operation of the Company. The Company states that the legal requirements of their NPDES permits have forced it to phase out its treatment operations and become a collection-only utility. Moore Sewer states that the Company's financial statements and ongoing financial information provided to the Staff shows that the operation of the systems in the two subdivisions has been quite costly. For example, Company witness Teichman stated that he and his wife were forced to mortgage their home in order to pay the capacity fee to the SSSD for Madera. Further, Teichman's plumbing company, Operation Drains has contributed approximately \$75,000 in labor to Moore Sewer's operations. Teichman states that Operation Drains have had to fund substantially Moore Sewer's operations in order to meet the legal requirements imposed upon it. Teichman states that collection rates or a collection rate commensurate with current rates are absolutely essential due to the increased costs associated with

maintaining the system, as well as the capacity fees and other substantial costs that Moore Sewer has incurred in order to comply with the DHEC Consent Orders.

12. The Commission Staff, through the testimony and exhibits of Staff witness Vivian Dowdy, made accounting adjustments to allocate expenses for the collection portion of the Company's sewer service charge. Staff proposed to annualize revenue for the year ended December 31, 2001. Staff also proposed to eliminate expense associated with the treatment of sewerage, and to adjust depreciation expenses to eliminate expenses associated with the closing of the treatment plant. Staff also proposes to adjust income taxes for accounting and pro forma adjustments. Staff also proposed to show the amount of revenue needed to generate the approved operating margin of 24.51% as contained in the Company's last rate case. Staff witness William O. Richardson also testified as to the details of the contracts proposed for approval, and the potential revenue requirement of the Company. Further, Richardson calculated a proposed "blended" rate for collection only for the two subdivisions to be \$24.98.

#### **CONCLUSIONS OF LAW**

1. After having set out the facts and evidence in this case, and after considering the matter, we must conclude that the owner of the Company, Mr. Teichman, has done an excellent job in attempting to maintain the two systems at issue. He obviously has gone the "extra mile" in keeping the systems afloat, even to the point of mortgaging his own home to pay the capacity fee to tie the Madera System onto the SSSD. The problem we have with this case is that, although the Applicant has shown us that he has expended considerable amounts for the operation and maintenance of the

systems serving Madera and Linville Hills, he has not submitted a cost-based Application for the collection-only rates. The Commission Staff attempted to help solve this problem with their analyses and testimony, but unfortunately we are not convinced that we have a cost-based Application before us that properly documents and supports the proposed rates on a collection-only basis. We therefore hold any ruling on proposed accounting adjustments in abeyance at this time.

2. We are convinced, however, that the contract with the SSSD and the City of Spartanburg for treatment of sewerage from Madera that is already in effect should be approved *nunc pro tunc*, and the proposed contract with SSSD for treatment of sewerage from Linville Hills should also be approved as being in the public interest. These contracts are the result of Consent Orders signed with the Department of Health and Environmental Control, and are in furtherance of the 208 Plan, which would eliminate the treatment plants serving the Madera and Linville Hills neighborhoods. The two contracts appear to be reasonably priced. Accordingly, the two contracts are hereby approved, with the contract with SSSD for treatment of sewerage from Madera being approved *nunc pro tunc*.

3. With regard to the collection-only rates, we hereby hold that the Company may collect the approved \$17.50 per month flat rate for the Madera Subdivision, and the \$28.50 per month flat rate approved for the Linville Hills Subdivision as collection-only rates at this time. However, Moore Sewer, Inc. is hereby required to file with this Commission an Application for a new cost-based collection-only rate within 60 days from its receipt of this Order. Moore Sewer, Inc. may continue to charge the currently

approved monthly rates in the Madera and Linville subdivisions, pending the Commission's final determination related to the Application for a cost-based collection-only rate. The currently approved operating margin of 24.51% shall remain in full force and effect until such time as we consider the new cost-based collection-only rate Application.

4. This Order shall remain in full force and effect until further Order of the Commission.

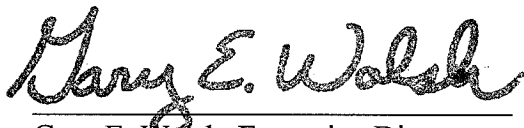
BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn, Chairman

ATTEST:



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Gary E. Walsh, Executive Director

(SEAL)